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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,600	02/28/2002	James J. Miller	Miller, Jim-001:C	2871

7590 12/16/2002

THE MATTHEWSFIRM
1900 WEST LOOP SOUTH, STE. 1800
HOUSTON, TX 77027

EXAMINER

ROWAN, KURT C

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 12/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/086,600

Applicant(s)
MILLER

Examiner
KURT ROWAN

Art Unit
3643



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 28, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-52 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 38-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 38 conflicts since the shanks in the second position are in two different locations. It appears that one position should be the first position.

Claim Rejections - 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 29-37, 40-48, 50-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Prior.

The patent to Prior shows a fishing hook having a first shank *b* and a second shank *b'*, both having first and second ends. Prior shows a tensioner *a* disposed intermediate the first shank and the second shank at about the middle of the single piece of wire. The tensioner has a first state

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and a second state as shown in Figs. 1-2. Prior shows a latch *c* having a first latch position and a second latch position as shown in Figs. 1-2. The latch is disposed about the first shank and releasably in communication with the second shank.

Claim Rejections - 35 U.S.C. § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 38, as can be understood, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prior.

The patent to Prior shows a fishing hook as discussed above. Prior shows the first and second shanks substantially parallel in Figs. 1, but does not show the shanks crossed. However, it would have been obvious employ crossed shanks in one position and substantially parallel in another position since the function is the same and no stated problem is solved. In reference to claim 49, Prior discloses spring steel wire, but does not disclose a composite material. However, it would have been obvious to employ a composite material since the selection of a known material is based on its suitability for the intended use. See *In re Leshin*, 125 USPQ 416.

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7. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prior as applied to claim 29 above, and further in view of Danielson .

The patents to Prior and Danielson show fishing hooks and lures. Prior has been discussed above and shows a prong which is taken to be the thickened part around the shank that the latch mounts on. The patent to Danielson shows a fishing lure 1 with crossing hook shanks 2, 2 and a pin 7 with a flat head 8. In reference to claim 39, it would have been obvious to mount the hook of Prior in a body as shown by Danielson since merely one equivalent trap hook is being substituted for another and the function is the same.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to DePaye, Walls, Clayton, Burke, Lockhead, Clark, Rentz, and Gardiner show other trap hooks.

9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday
from 6:30 a.m. to 5:00 p.m.

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The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read "Kurt Rowan", with a stylized flourish at the end.

KURT ROWAN

PRIMARY EXAMINER

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December 10, 2002